

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION-DETROIT

IN THE MATTER OF:

MARKIA STEVENSON,
FKA MARKIA BARNETT-STEVENSON,
FKA MARKIA BARNETT,

Case No. 19-56842-MLO
Honorable MARIA L OXHOLM
Chapter 13

Debtor.

15705 Goddard
Southgate, MI 48195
XXX-XX-6572

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY ON BEHALF OF CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001(A)(3)

Credit Acceptance Corporation (“Movant”) by and through counsel, KILPATRICK & ASSOCIATES, P.C., states:

1. The Debtor (“Debtor” as used herein shall include both Debtors in a joint case) filed a voluntary Chapter 13 petition on November 27, 2019.
2. On the Petition Date the Debtor was indebted to Movant in the amount of \$7,492.45 (plus interest, fees, and costs) relating to a 2012 Nissan Sentra (VIN: 3N1AB6AP1CL735030) (Acct No.: 0376) (the “Vehicle”).
3. The Vehicle listed in Paragraph 2 was purchased on a Retail Installment Sale Contract (the “Contract”) pursuant to which Movant perfected its security interest in the Vehicle. (A copy of the Contract and proof of perfection are attached hereto.)
4. The approximate value of the Vehicle is \$5,500.00, based on the NADA Official Used Car Guide.
5. Movant is entitled to termination of the automatic stay to enforce its rights with respect to the Vehicle pursuant to 11 U.S.C. § 362(d)(1), §361(d)(2), § 365(p) and/or § 362(h) for the following reason(s):
 - (a) Upon information and belief, the Debtor has failed to insure the Vehicle against risk of loss, damage, theft or destruction as contractually required, and the continued use or possession by the Debtor of the Vehicle is a denial of adequate protection.

(b) The contract requires monthly payments in the amount of \$273.47; the Debtor is in default of those payments in the amount of \$2,311.88.

(c) The Plan provides for surrender of the Vehicle; and the stay must be vacated to allow recovery and liquidation of the Vehicle.

6. The entry of this Order will survive a conversion of this case to a Chapter 7 or Chapter 11 case;

7. Counsel for Movant sought concurrence in the relief sought from opposing counsel on January 7, 2020; however, concurrence was not obtained.

8. After the stay is terminated, the Debtor will have minimal motivation to insure, preserve, or repair the Vehicle, and therefore Movant requests that the Court waive the stay of the order terminating the stay under Fed.R.Bankr.P. 4001(a)(3) so that Movant may proceed to take possession of the Vehicle.

WHEREFORE, Movant requests the Court to enter the Order attached as Exhibit 1, terminating the stay, to permit Movant to exercise any and all rights with respect to the Vehicle, and to grant such other relief as may be appropriate and just.

Respectfully submitted,
KILPATRICK & ASSOCIATES, P.C.

/s/ RICHARDO I. KILPATRICK
RICHARDO I. KILPATRICK, ESQ. (P35275)
Attorney for Creditor Credit Acceptance Corporation
903 North Opdyke Road, Suite C
Auburn Hills, MI 48326
ecf@kaalaw.com
(248) 377-0700

Dated: January 7, 2020

UNITED STATES BANKRUPTCY COURT
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IN THE MATTER OF:

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**ORDER GRANTING MOTION FOR RELIEF FROM THE AUTOMATIC STAY
ON BEHALF OF CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001(A)(3)**

This matter having come before the Court on Credit Acceptance Corporation's ("Movant") Motion for Relief from the Automatic Stay, filed by and through counsel, KILPATRICK & ASSOCIATES, P.C.; notice and service having been properly effected; no objection to the Motion having been filed, or if filed same having been overruled or withdrawn; Movant, being the holder of a valid, perfected and unavoidsed security interest in a 2012 Nissan Sentra (VIN: 3N1AB6AP1CL735030) (Acct. No.: 0376) (the "Vehicle") to secure a claim in the amount of \$7,492.45; the Vehicle having an approximate value of \$5,500.00; and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that the automatic stay as provided by 11 U.S.C. § 362, is hereby vacated and terminated as it applies to the enforcement by Movant of any and all rights with respect to the Vehicle.

IT IS FURTHER ORDERED that the stay under Fed.R.Bankr.P. 4001(a)(3) does not apply to this Order.

IT IS FURTHER ORDERED that if upon final disposition of the Vehicle by Movant any funds remain after payments of any and all amounts which are due to Movant, such balance shall be paid to the Trustee for the benefit of the estate.

IT IS FURTHER ORDERED that the relief granted in this Order will survive the conversion of this case to a case under a different Chapter.

EXHIBIT "1"

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
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**NOTICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY
ON BEHALF OF CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001(A)(3)**

Creditor, Credit Acceptance Corporation has filed papers with the Court for relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant relief from the automatic stay, or if you want the Court to consider your views on the Motion, within fourteen (14) days after the date of this Notice, you or your attorney must:

1. File with the Court a written response or an answer, explaining your position at¹:

United States Bankruptcy Court,
211 West Fort Street,
Detroit, Michigan 48226.

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

Richardo I. Kilpatrick, Attorney for Creditor, Credit Acceptance Corporation, Kilpatrick & Associates, P.C., 903 North Opdyke Road, Suite C, Auburn Hills, Michigan 48326;

Office of the U.S. Trustee, 211 West Fort Street, Suite 700, Detroit, Michigan 48226;

David Wm Ruskin, Chapter 13 Trustee, 26555 Evergreen, Suite 1100, Southfield, MI 48076;

Markia Stevenson, fka Markia Barnett-Stevenson, fka Markia Barnett, Debtor, 15705 Goddard, Southgate, MI 48195;
and

Aikyea Barnett-Landers, co-debtor, 32751 Marcello St. Apt. 203, Garden City, MI 48135; and

David Ross Ienna, Attorney for Debtor, Jaafar Law Group PLLC, 1 Parklane Blvd., Suite 729 East, Dearborn, MI 48126.

2. If a response or answer is timely and served, the Clerk will schedule a hearing on the Motion and you will be served with a notice of the date, time, and location of the hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that Relief.

Respectfully Submitted;
KILPATRICK & ASSOCIATES, P.C.

/s/ RICHARDO I. KILPATRICK
RICHARDO I. KILPATRICK, ESQ. (P35275)
Attorney for Creditor, Credit Acceptance Corporation
903 North Opdyke Road, Suite C
Auburn Hills, MI 48326
ecf@kaalaw.com
(248) 377-0700

Dated: January 7, 2020

¹ Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e)

UNITED STATES BANKRUPTCY COURT
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**PROOF OF SERVICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY ON BEHALF OF
CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001(A)(3)**

KELISHA SMITH certifies that on the 7th day of January, 2020, she served a copy of the MOTION FOR RELIEF FROM THE AUTOMATIC STAY ON BEHALF OF CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001 (A)(3), PROPOSED ORDER, NOTICE OF MOTION and this PROOF OF SERVICE, in the above-captioned matter, with the Clerk of the Court using the ECF system which will send notification of such filing upon the following:

David Ross Ienna: david@fairmaxlaw.com

David Wm Ruskin: ruskin.stips@det13.com

Office of the U.S. Trustee: via ECF e-mail

And by depositing same in a United States postal box located in Auburn Hills, Michigan, with the lawful amount of postage fully prepaid thereon, upon the following:

Markia Stevenson, fka Markia Barnett-Steenson,
fka Markia Barnett
15705 Goddard
Southgate, MI 48195

Aikyea Barnett-Landers
32751 Marcelllo St. Apt. 203,
Garden City, MI 48135

/s/ Kelisha Smith
KELISHA SMITH, an employee of
KILPATRICK & ASSOCIATES, P.C.
903 North Opdyke Road, Suite C
Auburn Hills, Michigan 48326
ecf@kaalaw.com
(248) 377-0700